

ORDINANCE NO. 1884  
MILWAUKIE, OREGON

AN ORDINANCE AMENDING CHAPTER 9.20, EXCLUSION, OF THE MILWAUKIE MUNICIPAL CODE.

WHEREAS, in 1996 Ordinance 1806 was adopted which established an exclusion area within the City of Milwaukie; and

WHEREAS, the City Council finds that the exclusion area established by Ordinance 1806 shall be amended; now, therefore;

THE CITY OF MILWAUKIE ORDAINS AS FOLLOWS:

Section 1: Section 9.20.010 of the Milwaukie Municipal Code is amended to read as follows:

**9.20.010 Definitions.**

As used in this chapter, the term "Milwaukie core area and transit zone" means all public buildings and their surroundings; Tri-County Metropolitan Transportation District (Tri-Met) transit stations and shelters including any and all adjoining stairways, ramps and elevators, (if any); city of county owned parks; streets; sidewalks; alleyways and any and all other public rights of way located within that area bounded by the Willamette River, then north along the Willamette River to Johnson Creek, then easterly along the shore until Johnson Creek meets Oregon State Highway 224, then eastward down the southerly side of Highway 224 until the intersection of Highway 224 and SE 23<sup>rd</sup>, then southerly down the easterly side of SE 23<sup>rd</sup> until the intersection with the southern side of SE Harrison Street, then eastward down Harrison Street to the intersection with the UP Railroad tracks, then southerly down the eastern side of the UP Railroad tracks to Washington Street, then easterly down the southern side of Washington Street to SE 27<sup>th</sup> Street, then southerly down the eastern side of SE 27<sup>th</sup> Street to the intersection with Willard Street, then westerly down the southern side of Willard Street to SE Lake Road, then northerly along the southern side of SE Lake Road to the intersection of SE Lake Road and SE 21<sup>st</sup> Street, then drawing an imaginary line from the intersection of SE 21<sup>st</sup> and SE Lake Road to the northern shoreline of Kellogg Creek then west along the shoreline of Kellogg Creek until the confluence of Kellogg Creek and the Willamette River.

Section 2: Section 9.20.020 of the Milwaukie Municipal Code shall be amended by deleting subsections E. and N. from that section.

Section 3: Section 9.20.040 of the Milwaukie Municipal Code is amended to read as follows:

**9.20.040 Issuance of exclusion notices or warning notices.**

At the time of the arrest of an individual for any of the conduct identified in Section 9.20.020 or within 30 calendar days thereafter, the arresting officer or other person authorized by the City Manager or Chief of Police may issue a written exclusion notice excluding the person from the Milwaukie core area and transit zone. The notice shall specify that the person is excluded from the Milwaukie core area, the duration of the exclusion, and the date the exclusion commences. The exclusion shall commence on the sixth calendar day after issuance of the notice. The notice shall also describe the right to appeal provided in Section 9.20.050 and the appeal process.

Section 4: Section 9.20.050.D. of the Milwaukie Municipal Code is amended to read as follows:

- D. The city shall have the burden to show by a preponderance of evidence that the exclusion is based on conduct enumerated in Section 9.20.020.

Section 5: Section 9.20.060 of the Milwaukie Municipal Code is amended to read as follows:

**9.20.060 Consequence of notice of exclusion.**

In the event no appeal is properly and timely filed, then the exclusion shall continue for the period set out in the notice, but shall not exceed ninety days. In the event a person found in the Milwaukie core area and transit zone is the subject of a valid notice of exclusion, that person shall be subject to arrest for criminal trespass.

Section 6: Section 9.20.070 of the Milwaukie Municipal Code shall be amended to read as follows:

**9.20.070 Variances.**

- A. Variances from the exclusion shall be granted at any time during the exclusion by either the Chief of Police or the City Manager in the event:
1. The individual is able to make a showing that he/she resides in the core area and transit zone and did so prior to the issuance of the exclusion notice;
  2. The individual is employed by (or is a principal of) a business located in the core area and transit zone;

3. The individual is attending a bona fide educational institution located in the core area and transit zone;
4. The individual is able to show they have an appointment with a health professional whose office is located within the core area and transit zone; or
5. The individual has another reason acceptable to the City Manager or Chief of Police for being in the core area and transit zone.

B. Provided that one or more of the conditions for issuance of the variance are met, the Chief of Police or the City Manager shall grant the variance but may limit ingress to and egress from the core area and transit zone to a specific time period and location.

Read the first time on 3/6/01, and moved to second reading by 4-0 vote of the City Council.

Read the second time and adopted by the Council on 3/6/01.

Signed by the Mayor on 3/6/01.

Mayor

ATTEST:

Pat Duval

City Recorder

APPROVED AS TO FORM:  
RAMIS, CREW, CORRIGAN &  
BACHRACH, LLP

James H. Ramis  
City Attorney

gff/acm/65021/exclusionarea.or3(2/1/01)

ORDINANCE NO. 1884

Page 3



